

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Misc. Application No.403 of 2023

Applicant/surety : Muhammad Tahir son of Yaqoob
through Mr. Qadir Hussain Khan, Advocate

Respondent : The State, through Mr. Mumtaz Ali Shah APG

Date of Hearing : 03.07.2025

Date of Order : 03.07.2025

ORDER

TASNEEM SULTANA, J: Through the instant Criminal Miscellaneous Application, applicant Muhammad Tahir has assailed order dated 18.05.2023 (**impugned Order**), passed by the learned 1st Additional Session Judge/Special Model Criminal Trial Court, Karachi Central (**Trial Court**), whereby penalty of Rs.100,000/- has been imposed upon the applicant being surety in Spl. Case No.1161 of 2022, Old Case No.975 of 2017, arisen out of FIR No.269 of 2017, registered under section 6,9 (c) CNS Act,1997 (**Act of 1997**) at P.S. Rizvia Society, Karachi.

2. Necessary facts, as per the contents of the instant Crl.Misc.Application, are that the applicant stood surety of accused Yaqoob son of Ali Muhammad in aforesaid case/crime. Accused was enlarged on bail on 06.02.2018. Thereafter he attended trial Court regularly but remained absent from 07.08.2019. Subsequently he was arrested in another case and appeared in trial court on 26.09.2020. The trial Court imposed full surety amount as fine. Accused faced trial and vide dated 29.04.2023 he was acquitted of the charge.

3. Learned Counsel for applicant, inter-alia, contends that the petitioner is financially weak and unable to submit the penalty amount; that due to some unavailable circumstances, accused Yaqoob remained absent; that impugned order is against the law, facts of the case and natural justice, and request for leniency and reduction of penalty amount.

4. Conversely, learned APG has contends that accused remained absent from 17.08.2019 and on no occasion surety produced accused despite being close relation, hence he vehemently opposed instant application.

5. Arguments heard. Record perused.

6. It is an admitted fact that accused jumped bail and remained absent from 17.08.2019. The surety being real son failed to furnish sufficient reason for non-production of accused before trial Court.

7. Perusal of impugned order reflects that learned trial Court issued NBW against accused and notice to surety under section 514 Cr.P.C. was issued to show cause as to why surety amount may not be recovered from him pursuant to which the order of forfeiture of surety was passed. Thus all the necessary steps prescribed for forfeiture of bail bond as per settled law and recently summarized by this Court in the case of **Sabir Shah V. The IInd Additional Sessions Judge Karachi, East (2020 YLR 2347)** have been complied with prior to passing the impugned order.

It has already been held in a number of cases by the Honourable Supreme Court including **Muhammad Aslam Vs. The State, (2004 SCMR 211)**, **Saaed Akhtar Vs. The State (2009 SCMR 834)** that no lenient view should be taken in matters of sureties as it encourages people to abscond. At the same time, the Honourable Supreme Court rightly pointed out in the case of **Zeeshan Kazmi Vs. The State (PLD 1997 SC 267)** that a balance has to be held between undue leniency which may lead to abuse and undue severity which may lead to unwillingness on the part of the neighbors and friends to come forward and give bail bond for accused persons.

8. Keeping all the said principles in mind, this Court is of the view that impugned order passed by the learned trial Court is within the four corners of law in terms of Section 514 Cr.P.C. whereas the learned Counsel has relied on case law reported as Muhammad Ali and others Vs. The State (2007 SCMR 575) wherein surety himself

produced accused before trial Court who after trial have been acquitted and on humanitarian surety amount was reduced. Herein present case applicant/surety being real son did not produce accused Yaqoob who after arrest in another case appeared in custody subsequently remained absent and again after getting fresh bail faced trial, therefore, the case law referred by the learned Counsel is quite distinguishable from the facts and circumstances of the present applicant.

9. For the foregoing reasons, we find no illegality in the impugned order which does not warrant any interference by this Court. Resultantly, instant criminal miscellaneous application is accordingly, dismissed.

JUDGE

JUDGE